

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

CELEBRITY FUND MANAGEMENT LLC,  
  
Plaintiff,  
  
-against-  
  
HUMANS, INC. D/B/A FLIPFIT,  
  
Defendant.

24-CV-5282 (JGLC)

**ORDER**

JESSICA G. L. CLARKE, United States District Judge:

Defendant Humans, Inc. moves to stay discovery, pending decision on its motion to dismiss the complaint. *See* ECF No. 24.<sup>1</sup> Under Federal Rule of Civil Procedure 26(c), a district court may stay discovery “for good cause.” Fed. R. Civ. P. 26(c). “The pendency of a dispositive motion is not, in itself, an automatic ground for a stay.” *Negrete v. Citibank, N.A.*, No. 15-cv-7250 (RWS), 2015 WL 8207466, at \*1 (S.D.N.Y. Dec. 7, 2015). In determining good cause to stay discovery when a motion to dismiss is pending, courts consider the following factors: “1) whether a defendant has made a strong showing that the plaintiff’s claim is unmeritorious, 2) the breadth of discovery and the burden of responding to it, and 3) the risk of unfair prejudice to the party opposing the stay.” *Id.*

Here, the Court finds that Defendant has not demonstrated good cause for a stay of discovery. Although Defendant moves to dismiss the Complaint in its entirety and the Court has yet to rule on that motion, it remains unclear at this stage of litigation that Defendant has made a strong showing that all claims brought by Plaintiff are unmeritorious. While the Court makes no finding as to whether Defendant’s motion will ultimately succeed or fail, Plaintiff has asserted

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<sup>1</sup> Plaintiff filed its opposition to both the motion to dismiss and motion to stay discovery after the deadline. Counsel filed a letter explaining the delay. ECF No. 32. The Court accepts counsel’s explanation and will consider both briefs.

both breach of contract and quasi-contract claims in the alternative, increasing the likelihood that at least some of these claims will survive a motion to dismiss. Furthermore, Defendant makes no claim that discovery is likely to be particularly broad here or that they will face any particular burden in responding to requests. While Plaintiff has likewise identified no unfair prejudice, the other two factors weigh against a stay. Accordingly, discovery is not stayed pending a decision on Defendant's motion to dismiss. The parties are directed to comply with the Court's Order at ECF No. 21.

The Clerk of Court is directed to terminate ECF No. 24.

Dated: November 13, 2024  
New York, New York

SO ORDERED.

A handwritten signature in blue ink that reads "Jessica Clarke". The signature is written in a cursive, flowing style. It is positioned above a solid horizontal line.

JESSICA G. L. CLARKE  
United States District Judge